

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) NO: 22-CR-1561 MIS
)
MICHAEL RIVERA,)
)
Defendant.)

PARTIAL TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
(*Trial testimony of Daniel E. O'Donnell, Part 1 of 2*)
BEFORE THE HONORABLE MARGARET I. STRICKLAND
UNITED STATES DISTRICT JUDGE
THURSDAY, JULY 6, 2023
LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO

(Proceedings recorded by machine shorthand and
transcript produced by Computer-Aided Transcription.)

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(Begin partial transcript.)

MS. ONG: The United States calls Special Agent Daniel O'Donnell.

THE COURT: All right. Special Agent O'Donnell, come forward and I'll swear you in.

DANIEL E. O'DONNELL,

After having been first duly sworn, did make the following answers:

DIRECT EXAMINATION

THE COURT: Thank you.

Q. (BY MS. ONG): Good afternoon.

A. Good afternoon.

Q. Can you please state and spell your name for the record.

A. So Daniel E. O'Donnell. First name D-A-N-I-E-L. Middle initial "E." Last name "O," apostrophe, D-O-N-N-E-L-L.

Q. What is your current occupation?

A. I am a Supervisory Special Agent with the Federal Bureau of Investigation.

Q. What type of things do you do in that role?

A. In my current capacity, I'm also the Unit Chief for the FBI Behavioral Analysis Unit III, or BAU III, which is our Crimes Against Children unit located back in Virginia.

1 Q. And the Behavioral Analysis Unit, is that a component
2 of the FBI?

3 A. Yes, ma'am.

4 Q. And I think you kind of touched on this, but just to
5 be clear, what is Unit III?

6 A. So we have four operational units within the BAUs
7 within the FBI that specialize in different criminal
8 violations, and we simply divide them up by number
9 designation. It's not very creative. So, in my case, it's
10 BAU III, which is exclusively focused on crimes against
11 children matters.

12 Q. And when you say "crimes against children," can you
13 tell us what types of crimes we're talking about?

14 A. Yes, ma'am. Most often, the crimes that we're
15 involved with involve child sexual abuse, online child
16 sexual exploitation and other types of abuse of children;
17 child abductions, typically, that are sexually motivated,
18 child homicides, and a variety of other crimes that are
19 perpetrated against children.

20 Q. What's the primary goal or purpose of your unit?

21 A. So our primary purposes are to provide behaviorally
22 based operational support to our federal, state, local, or
23 tribal law enforcement around the country. Again, in my
24 case, that refers to crimes against children. And we have
25 three -- what are three primary goals within all of the

1 different units: The first is to provide that investigative
2 support in the form of recommendations, strategies. And
3 that usually occurs through what we refer to as
4 "consultations." So we may do that in person where we meet
5 with the agency, we may do it over the phone, or we may
6 deploy out during active and/or cold cases and embed
7 ourselves within that department and within that command
8 post.

9 Our other two primary responsibilities are to
10 conduct and be familiar with research in our specific
11 areas -- again, in my case, that refers to crimes against
12 children -- and then also to conduct training around the
13 country, typically to law enforcement officers.

14 Q. Special Agent O'Donnell, do you have any knowledge of
15 the facts of our case here today?

16 A. No, ma'am. The only information I have is the
17 location where it's at and the disclosure notice that I
18 signed prior to coming out.

19 Q. Have you met any of the witnesses in this case?

20 A. No, ma'am. Other than the law enforcement, I believe
21 maybe the case agent, that was it.

22 Q. Have you read any reports?

23 A. Again, other than the -- my own disclosure notice, no,
24 ma'am.

25 Q. And why is that?

1 A. My understanding is I was asked to testify to help
2 educate members of the jury as to general clusters of
3 behaviors that are commonly used by child offenders to
4 sexually exploit children and not necessarily to comment on
5 any particular case or fact.

6 Q. And so what you're doing here, has that sometimes been
7 referred to as being a "blind expert"?

8 A. Yes, ma'am.

9 Q. And what's the value in that?

10 A. From my perspective, again, it's testifying as to my
11 general experience related to these types of offenders and
12 the different types of clusters of behaviors that we often
13 see, again, as opposed to make any sort of comment on a
14 particular case.

15 Q. All right. And so you referenced your prior
16 experience. I'd like to talk to you a little bit about your
17 education, training, and experience.

18 A. Yes, ma'am.

19 Q. Let's start with your education. Can you please tell
20 the ladies and gentlemen of the jury about any education you
21 have, post-high school?

22 A. I have a bachelor's degree in business administration,
23 a bachelor's degree in psychology, and a master's degree in
24 accounting.

25 Q. What about your professional experience after college?

1 A. I worked for two accounting firms for several years
2 before joining the FBI.

3 Q. And when did you first join the FBI?

4 A. That was a little over 19 years ago, in 2004.

5 Q. How long have you been with the Behavioral Analysis
6 Unit?

7 A. Approximately -- I was first promoted back in 2016,
8 so approximately seven and a half years.

9 Q. All right. And before you started your work at the
10 Behavioral Analysis Unit, did you complete agent -- FBI
11 agent training at Quantico?

12 A. Yes, ma'am.

13 Q. Can you please explain to the ladies and gentlemen
14 what that entails?

15 A. Yes, ma'am. So, upon selection to the FBI, every
16 agent is then required to attend the FBI's academy, which is
17 located back in Quantico, Virginia, just a few miles north
18 of our office. That training is typically a -- or, roughly,
19 a four- or five-month training that provides instruction in
20 various capacities: Investigative techniques, tactical
21 operations, firearms, defensive tactics, legal, and so
22 forth. And then, on successfully completing that, you're
23 assigned to a particular field office within the United
24 States.

25 Q. And what field office were you assigned to?

1 A. At that time, I was assigned to the Philadelphia
2 Division, in our Ft. Washington Resident Agency, or "RA."
3 And that's just a fancy say of saying that -- "RAs" are
4 typically just referred to as "satellite offices." So while
5 I was assigned to the Philadelphia division, I didn't report
6 to the headquarter city, but was located in an off-site.

7 Q. At that time, what type of cases were you
8 investigating?

9 A. At that time, I primarily investigated white collar
10 crime and violent crime. And I was assigned there from 2004
11 through the end of 2009.

12 Q. And what happened in 2009?

13 A. In 2009, I transferred to what is now referred as the
14 Child Exploitation Operations Unit. It had a different
15 name -- a couple of different names when I was there, but
16 that is -- "CEOU" is what it's referred to now.

17 Q. And what is the purpose of that unit?

18 A. The primary purpose of that unit is, more or less, a
19 central hub to investigate large-scale groups that were
20 engaged in the online sexual exploitation of children that
21 typically span multiple jurisdictions, both here in the
22 United States and overseas.

23 Q. While you were there, were you actively working on
24 investigations?

25 A. Yes, ma'am. So while assigned to that unit, my two

1 primary roles were as case agent and an online undercover
2 agent.

3 Q. Can you explain to the ladies and gentlemen of the
4 jury what would you do as an online undercover agent.

5 A. That could take a variety of forms. One aspect is --
6 and when I refer to "undercover" in an online capacity, it
7 simply means that we're acting in a capacity using something
8 other than our true identities. So there could be a
9 multitude of activities that we might engage in that could
10 include infiltrating different groups and organizations to
11 collect evidence, review what's being said; review what are
12 the communications and messages between those individuals.
13 It also can include direct one-on-one communications with
14 offenders and also what we refer to as "online identity
15 takeovers," which typically occur when somebody is arrested
16 and they may give us consent to assume their online
17 personas. And we will assume that online presence and gain
18 access, using those identities, to whatever groups or
19 organizations that they might have been a member of.

20 Q. And in your role both as the case agent and undercover
21 agent, did you have exposure to certain common behaviors or
22 traits that offenders exhibit when they were trying to
23 sexually exploit children?

24 A. Yes, ma'am.

25 Q. Is it fair to say that, since 2009, you've primarily

1 focused your career on sexual exploitation of minors?

2 A. Yes, ma'am.

3 Q. I know it's difficult, especially given the time frame
4 you're dealing with, but rough estimate, how many cases do
5 you think that you've investigated regarding child
6 exploitation?

7 A. Well, it's difficult to estimate, but I would say
8 within my time as both a case agent and my time at BAU, it
9 would be easily be in the hundreds.

10 Q. And what about the number of offenders that you've
11 investigated?

12 A. Again, probably easily in the thousands. And just
13 for -- to help expand on that, back in CEOU, because the
14 groups we investigated were fairly large, we would typically
15 open a case on a single group rather than a separate case on
16 every individual offender, so some of those groups may have
17 had hundreds, thousands, and, in some case, tens of
18 thousands of members.

19 Q. Special Agent O'Donnell, when we were talking about
20 your work as an undercover agent, do you have a
21 certification in that?

22 A. Yes, ma'am. I attended the FBI's online certification
23 undercover course.

24 Q. Did you leave the Child Exploitation Online Unit in
25 2016?

1 A. Yes, ma'am, in January of 2016 is when I was promoted
2 to BAU III.

3 Q. And how is one promoted to that position?

4 A. For agents within the FBI, BAU is considered a
5 supervisory position. So all supervisory positions for
6 agents are a competitive process. And so what typically
7 occurs is there's something we refer to as a "posting" that
8 will go out bureau-wide that's available for agents to then
9 compete for that position.

10 Q. Have you received specific training with regard to
11 child exploitation and sexual abuse of children?

12 A. Yes, ma'am.

13 Q. Can you briefly go over that for the ladies and
14 gentlemen of the jury.

15 A. Again, that's been a variety of trainings since 2009
16 that would easily be in the hundreds of hours related to
17 varies crimes against children, including child sexual
18 abuse, online exploitation, and other crimes against
19 children matters.

20 Q. And what about when you became promoted to the BAU;
21 additional trainings for your role there?

22 A. Yes, ma'am. Typically what occurs upon selection to
23 BAU, you will go through another fairly intensive training
24 process that's about another four or five months, roughly
25 400 to 500 hours worth of training in various behavioral

1 aspects, psychological concepts, in addition to training
2 pertaining to your own specific unit. And that training is
3 typically provided both by law enforcement, other agents and
4 analysts within BAU, as well as those individuals outside of
5 law enforcement, academic researchers, medical providers,
6 psychologists, psychiatrists, et cetera.

7 Q. Did you receive any type of certification related to
8 that training?

9 A. Yes, ma'am. After that initial stage, there's
10 additional phases of training that typically include
11 rotations to the different units; certain other requirements
12 you have to meet in terms of deployments and training. And
13 then there is a separation evaluation period that goes
14 through that. And once you complete that, then you're
15 certified in behavioral analysis, which I was. I don't
16 remember the exact year, 2016 or 2017.

17 Q. Special Agent O'Donnell, you told us a little bit
18 about your exposure to offender behavior working on child
19 exploitation cases. Have you also had exposure to common
20 victim behavior in these types of cases?

21 A. Yes, ma'am. I would say, collectively since 2009, I
22 have a reviewed easily tens of thousands of investigative
23 documents related to crimes against children that related to
24 both offenders and child victims. I have reviewed tens of
25 thousands of communications by offenders and have reviewed

1 hundreds of hours worth of interviews of both offenders and
2 child victims.

3 Q. Special Agent O'Donnell, I want to segue into the
4 topic of grooming. Have you had any specialized training
5 with regard to grooming?

6 A. Yes, ma'am. Typically, that training would be
7 embedded into other trainings related to child sexual abuse
8 or exploitation, as opposed to being a separate stand-alone
9 trainings, but I've received various trainings in that since
10 I started working crimes against children back in 2009.

11 Q. And before we get into what your stage definition of
12 "grooming" is, can you just briefly explain, when we use the
13 term "grooming," what are we referring to?

14 A. Grooming, itself, is just sort of an overarching term
15 that's been used for decades now to describe what are
16 generally clusters of behaviors that are commonly used by
17 certain child sex offenders to engage a child in sexual
18 activity. So it's more of a general term that has been used
19 for quite some time to describe those behaviors.

20 Q. And in the last five years, have you given
21 presentations where the main focus is on grooming behaviors?

22 A. Yes, ma'am.

23 Q. Special Agent O'Donnell, I don't mean to embarrass
24 you, but I do also want to ask you about some of the awards
25 that you've received throughout your career. I'd like to

1 just go through them briefly.

2 In 2020, did you receive the Attorney General
3 Award for Distinguished Service?

4 A. Yes, ma'am.

5 Q. And that's awarded by the Attorney General of the
6 United States?

7 A. Yes, ma'am.

8 Q. And did you also receive that same award in 2016?

9 A. Yes, ma'am.

10 Q. And in 2018, did you receive the Director of the FBI's
11 award for Outstanding Criminal Investigation?

12 A. Yes, ma'am.

13 Q. Did you receive that same award in 2014?

14 A. Yes, ma'am.

15 Q. And in 2018, were you awarded the Medal of Excellence
16 by the FBI?

17 A. Yes, ma'am.

18 Q. And in 2017, the Associate Attorney General Award for
19 Exceptional Service in a Criminal Case?

20 A. Yes, ma'am.

21 Q. So during the time that you received those awards,
22 were you investigating crimes of sexual exploitation of
23 children?

24 A. Yes, ma'am, all those were related to crimes against
25 children investigations.

1 Q. Thank you. And I'd like to just previous -- briefly
2 discuss any previous testimony that you've given in court.
3 Have you ever been qualified as an expert?

4 A. Yes, ma'am.

5 Q. In what area?

6 A. Both in grooming and in online sexual exploitation
7 investigations.

8 Q. Have you been recognized as an expert both in state
9 and federal courts?

10 A. Yes, ma'am.

11 Q. And let's just talk about specifically this year,
12 2023. How many times have you been previously recognized as
13 an expert in grooming in federal court?

14 A. In federal court, in this year, 2023, I believe I was
15 qualified twice.

16 MS. ONG: All right. Your Honor, at this time,
17 I'd move the Court to recognize Special Agent O'Donnell as
18 an expert in the area of grooming.

19 THE COURT: From defense?

20 MS. BOOTH: Brief approach, Your Honor, if we
21 may?

22 THE COURT: Sure.

23 (Bench conference.)

24 MS. BOOTH: Your Honor, I know the Court just
25 ruled on this previously, but I want to make sure we're

1 maintaining an objection for all three of the experts.

2 THE COURT: That's fine. They're overruled
3 again. Whose witness is this?

4 MS. BOOTH: Mine, Your Honor.

5 THE COURT: All right. That's fine. For the
6 record, it's overruled again. And I'll recognize him as an
7 expert in front of the jury.

8 (Bench conference concluded.)

9 THE COURT: All right. Agent O'Donnell is
10 recognized as an expert in the area of grooming.

11 Ms. Ong, did you have another area or just
12 grooming?

13 MS. ONG: Just grooming.

14 THE COURT: All right. Agent O'Donnell is
15 recognized as an expert in grooming. Go ahead.

16 Q. (BY MS. ONG): All right. Special
17 Agent O'Donnell, I want to talk to you a little bit
18 more specifically about grooming. First, can you
19 tell the jury whether or not grooming is considered
20 to be a hard science or a soft science.

21 A. Typically, grooming would fall into the range of
22 what's considered more of a soft science. So, generally
23 speaking, hard sciences are more of those that are more
24 mathematically based, like chemistry, physics, et cetera.
25 Soft sciences are more of the behavioral sciences and

1 psychology. So, in that aspect, it's considered more of a
2 soft science.

3 Q. Thank you. And I think we briefly went over this, but
4 now since we're specifically on this subject matter, how is
5 grooming defined, generally?

6 A. Grooming can be defined as a dynamic process involving
7 a constellation of behaviors that are designed to gain the
8 cooperation of a child for the sexual gratification of an
9 offender. And, really, that's, again, just a fancy way of
10 saying that there aren't necessarily individual behaviors
11 taken in isolation that might be easily identifiable as
12 grooming, but rather it's the totality of these clusters of
13 behaviors that are designed to manipulate, coerce, or
14 exploit a child into engaging in sexual activity.

15 Q. And can you tell the jury a little bit of the history
16 of the terminology, "grooming"?

17 A. So the term, itself, has been used among law
18 enforcement and, at least to the extent that I'm familiar,
19 in the academic world for decades now to describe these
20 different clusters of behaviors and what their purposes and
21 goals are.

22 Q. And you referenced this a little bit, but are you also
23 familiar with the academic research in this field?

24 A. Yes, ma'am, generally so.

25 Q. And are you aware of any research that does not

1 recognize grooming as a real thing?

2 A. No, ma'am.

3 Q. Are there universal goals that are generally agreed
4 upon by the research communities with regard to an
5 offender's behavior when they're engaging in grooming?

6 A. Yes, ma'am. Both in my experience and my
7 understanding of the research into grooming, there are
8 essentially three primary goals of the process. And the
9 first is to facilitate the sexual abuse of a child. The
10 second is to prevent discovery of the activity from those
11 around the child. And then the third is to help mitigate,
12 delay, or prevent disclosure of that activity by the child.

13 MS. ONG: Your Honor, at this time, I would move
14 for the admission of Government's Exhibits 30 and 31.

15 THE COURT: What's defendant's position on 30 and
16 31?

17 MS. BOOTH: No objection, Your Honor.

18 THE COURT: All right. They're both admitted.
19 (Government's Exhibits 30 and 31 were admitted into
20 evidence.)

21 MS. ONG: Thank you, Your Honor.

22 Q. (BY MS. ONG): Agent O'Donnell, can you
23 explain -- when you define "grooming," do you define
24 it in different stages?

25 A. Yes, ma'am. I'll describe five stages of grooming;

1 although, the important thing to remember is that these
2 stages are more of an overarching framework to help describe
3 the clusters of behaviors, their purposes, and how they're
4 interconnected, and that grooming is not necessarily a
5 step-by-step process in which you must engage in one
6 behavior before engaging in another, but rather is much more
7 dynamic and is more of a cycle. Different behaviors may
8 have different purposes and may span across multiple stages,
9 so it's more of a framework as opposed to a step-by-step
10 process.

11 Q. And I'm sorry, Special Agent O'Donnell, before you get
12 into the actual five stages, can I please see Government's
13 Exhibit 30?

14 Special Agent O'Donnell, do you recognize this
15 exhibit?

16 A. Yes, ma'am.

17 Q. What is it?

18 A. This is a graphical representation of the five stages
19 of the grooming process.

20 Q. All right. And if you could now explain to the jury
21 what the first stage is.

22 A. So the first stage, as depicted on the screen, is
23 identifying a potential target. And what this simply refers
24 to are attempts by an offender to initially identify a
25 potential child in order to engage or exploit sexually. And

1 there are three broad concepts that are related to this
2 stage, and those are availability, vulnerability, and
3 desirability.

4 Q. Special Agent O'Donnell, in Government's Exhibit 30,
5 did you make this exhibit yourself?

6 A. I created the PowerPoint slide, yes, ma'am.

7 Q. Okay. And so we see this here kind of going in a
8 circle. Why do you have the stages going a circle?

9 A. Again, this is a representation of what I referenced
10 earlier that it's not necessarily a step-by-step process,
11 but it's more of a cycle and a continual dynamic process
12 that occurs over time.

13 Q. Can I please see Government's Exhibit 31?

14 Special Agent O'Donnell, do you recognize this
15 exhibit?

16 A. Yes, ma'am.

17 Q. What are we looking at here?

18 A. Again, this is a graphical representation of those
19 three concepts I referenced related to the first stage:
20 Availability, vulnerability, and desirability.

21 Q. Can you go into more detail about each of the
22 different phases -- stages?

23 A. Do you mean the three concepts?

24 Q. The three concepts, excuse me, yes.

25 A. Yes, ma'am. So the first concept of "availability,"

1 that simply refers to how available a child is to an
2 offender or how much access an offender may have to a
3 particular child. In addition to what types of behaviors
4 that offender may have to engage in, in order to gain
5 access, in order to increase access, or sustain that access
6 over a period of time, as well as breaking down any
7 potential to barriers to that access or preventing the loss
8 of access to that child. So that is the first concept with
9 availability.

10 Q. Can you think or give us some examples of what makes a
11 child more or less available to an offender?

12 A. So it may certainly depend on the circumstances. So,
13 generally speaking, caregivers have a significant amount of
14 access to their own children, whereas other individuals may
15 have varying degrees of access. So a teacher may have
16 access in terms of a school setting, a doctor may have
17 access in terms of a medical provider, religious figures may
18 have access in that particular community or church. And
19 those different levels of -- or those different positions
20 may allow for different or more broad access over time.

21 Q. What about someone who is in a romantic relationship
22 with someone who is close to a child?

23 A. Certainly possible that that would increase the
24 access, depending on what the circumstances were of that
25 relationship.

1 Q. Can you please now go through vulnerability.

2 A. So "vulnerability" refers to anything in a child's
3 life that may make them susceptible to manipulation or
4 coercion or exploitation. So not all kids are the same.
5 Different children may have different vulnerabilities and
6 the same child may have more than one. But it can be
7 helpful to think about these vulnerabilities in terms of
8 being either "tangible" or "intangible." By "tangible
9 vulnerabilities," that just refers to those things in the
10 child's life that might be a little bit more observable to
11 those around the child. So that could be financial
12 distress, malnutrition or neglect, if there's visible signs,
13 lack of parental supervision, behavioral problems, physical
14 abuse, just things that might be a little bit more
15 observable by the people around the child.

16 On the other hand, with "intangible
17 vulnerabilities," that reference to those vulnerabilities
18 that just might be more internal to a child. It might be a
19 little bit more difficult for those around that particular
20 child to see. So those can be things like lack of
21 self-esteem, poor self-image, lack of a sense of belonging,
22 anxieties, worries, fears, things like that that just might
23 be a little more difficult to observe.

24 And then there are other categories of
25 vulnerabilities that sometimes aren't thought of such; for

1 example, one of those may be the concept of sex itself.
2 Depending on the age and development of a child, they may
3 not have any type of concept as to what sex is or what it
4 even means, whereas other children may become more curious
5 about sex, may see physical changes to their bodies, may
6 have more sexualized thoughts. And those are areas that can
7 be ripe for manipulation.

8 And the last category are, again, things that may
9 not necessarily always be thought of as vulnerabilities, but
10 the mere -- generally speaking, children don't necessarily
11 enjoy the same freedoms that adults do and are often under
12 the control and authority of adults more so than other
13 adults are with each other. And so there's often a power
14 differential between an adult and a child or a differential
15 in authority, and so simple wants or desires of a child can
16 be vulnerabilities; say, for example, a desire for more
17 freedom.

18 So all of those different things can be different
19 types of vulnerabilities that different children can have or
20 that even the same child may have more than one.

21 Q. What about "desirability"?

22 A. By "desirability," that refers to what a particular
23 child sex offender's sexual preferences are. And that may
24 be somewhat unique to that particular sex offender. For
25 some child sex offenders, they have very specific

1 preferences. That might be age, a specific gender, hair
2 color, eye color, ethnic background, skin tone, et cetera.
3 For other offenders, it may be much more general or much
4 more broad, maybe an approximate age range or just gender.

5 But the key is that all of these three concepts
6 interact when potentially identifying a child. And what we
7 sometimes see is that although each of these factors are
8 relevant that sometimes availability and vulnerability might
9 be weighted a little bit more heavily. And what I mean by
10 that is, say, for an example, an offender has a specific
11 sexual preference for two different children, but only one
12 of those children he's able to gain access to or sustain
13 that access over time; that child may then become the
14 target. Likewise, if that offender has similar sexual
15 preferences for two children and similar level of access,
16 but, one child, he's able to more exploit some of those
17 vulnerabilities, then that child may then become the target
18 of those sexual advances.

19 Q. And all three of these components, are they
20 interconnected?

21 A. Yes, ma'am.

22 Q. Can I please see Government's Exhibit 30?

23 THE COURT: Ms. Ong, before we go on to the next
24 exhibit, it's almost five o'clock. Is this a good place for
25 you to stop?

1 MS. ONG: Absolutely.

2 THE COURT: All right. Ladies and gentlemen,
3 we're going to end for the day. We'll start again tomorrow
4 morning. We're going to start no later than 8:30, so please
5 be here no later than 8:15 so we can start on time. Before
6 I let you go, I'm going to read you an instruction.

7 When you leave here, friends or family may ask
8 about your day of jury duty. As I mentioned earlier today,
9 you may not discuss any of the evidence in this case with
10 anyone until deliberations are completed; that includes
11 family and close friends. Also you must not hear or read
12 about this trial or do any sort of your own research. The
13 reason for this, again, is that your decision must be based
14 solely on the evidence presented at the time.

15 With that, all rise for the jury.

16 (Jury not present.)

17 THE COURT: All right. Everybody can be seated.

18 All right. Before we end for the day, is there
19 anything else I can do?

20 For the Government?

21 MS. ONG: No, Your Honor.

22 THE COURT: For Defense?

23 MR. BENJAMIN: Not actually totally case-related
24 Your Honor: We had had, at different times, access for
25 staff with cell phones and so --

1 THE COURT: Who wants to bring in their cell
2 phone?

3 MR. BENJAMIN: My wife, Your Honor.

4 (Discussion off the record.)

5 THE COURT: Ms. Chavez is going to send an e-mail
6 for your wife.

7 MR. BENJAMIN: Thank you, Your Honor.

8 (Discussion off the record.)

9 THE COURT: Anything else?

10 MR. BENJAMIN: I don't have anything else.

11 THE COURT: Don't be here any later than 8:15.

12 MR. BENJAMIN: Understood, Your Honor.

13 THE COURT: And you can leave everything here.

14 MR. BENJAMIN: Entry went good this morning, so
15 we'll do the same thing.

16 THE COURT: All right. Sounds good. See you in
17 the morning.

18 The proceedings adjourned at 4:59 P.M. and reconvened on
19 Friday, July 7, 2023, at 8:21 A.M.)

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1 UNITED STATES OF AMERICA

2 DISTRICT OF NEW MEXICO

3
4 CERTIFICATE OF OFFICIAL REPORTER

5 I, Vanessa I. Alyce Chavez, CRR, RPR, NMCCR, and
6 Federal Official Court Reporter in and for the United States
7 District Court for the District of New Mexico, do hereby
8 certify that pursuant to Section 753, Title 28, United
9 States Code, that I did report in stenographic shorthand to
10 the best of my skill and ability the foregoing pages 1-27 of
11 Part 1 of 2 of the proceedings set forth herein, that the
12 foregoing is a true and correct transcript of the
13 stenographically recorded proceedings held in the
14 above-entitled matter and that the transcript page format is
15 in conformance with the regulations of the Judicial
16 Conference of the United States.

17
18 Dated this 4th day of August 2023.

19
20 S/Electronically Filed
21 Vanessa I. Alyce Chavez, CRR, RPR, NMCCR
22 Federal Official Court Reporter
23 100 N. Church Street
24 Las Cruces, NM 88001
25 Phone: (575) 528-1430
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